

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

EUGENE A. MAUWEE, SR.,

Plaintiff,

vs.

JACK PALMER, et al.,

Defendants.

3:10-cv-00250-RCJ-WGC

**ORDER**

**re: Doc. # 78**

Before the court is Plaintiff's Motion to Strike Defendants' Second Motion for Summary Judgment. (Doc. # 78.)<sup>1</sup> Defendants have not responded to Plaintiff's motion and have sought leave to file a late response. (Doc. # 80.) The court believes it has sufficient information before it to decide Plaintiff's motion to strike without further briefing.

Plaintiff's motion to strike was filed jointly with his opposition to Defendants' Second Motion for Summary Judgment. The clerk's office, however, docketed them as separate documents. The motion to strike appears as Doc. # 78, and Plaintiff's opposition to the motion for summary judgment is logged as Doc. # 77. This order only pertains to the motion to strike (Doc. # 78) component of Plaintiff's filing.

In adopting this court's report and recommendation (Doc. # 60) and in subsequently rejecting Defendants' objections to the report and recommendation (Doc. # 61), District Judge Robert C. Jones also specifically allowed Defendant to "file a successive motion for summary judgment based on the *Hudson* and *Paratt* line of cases." (Doc. # 70 at 2.) Defendants' second motion for summary judgment is predicted primarily upon the argument that Plaintiff had available to him meaningful post-deprivation

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<sup>1</sup> Refers to court's docket number.

1 remedies, which is the gravamen of the *Hudson* and *Paratt* line of cases. (Doc.# 74 at 4-5.) Thus, this  
2 court views Defendants' second motion for summary judgment as falling within the authorization granted  
3 Defendants by Judge Jones to file a successive motion for summary judgment.

4 Therefore, without deciding whether Defendants' second motion for summary judgment (Doc.  
5 # 74) does or does not present issues of merit, the court deems it is obligated to allow Defendants to  
6 submit those issues for consideration by the court. Plaintiff's motion to strike (Doc. # 78) is **DENIED**.

7 The component of Defendant's motion seeking leave to file a belated response to Plaintiff's  
8 motion to strike (Doc. # 80) is **DENIED AS MOOT**.

9 **IT IS SO ORDERED.**

10 DATED: December 10, 2014.

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WILLIAM G. COBB  
13 UNITED STATES MAGISTRATE JUDGE  
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